IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.487 of 2008
VISHAL KUMAR
Versus
STATE OF BIHAR & ORS

For the petitioner : Mr. P.N.Shahi
For the respondents: Mr. Yogendra Pd. Sinha, AAG 5

P R E S E N T

Hon'ble the Chief Justice
And
Hon'ble Mr. Justice Ghanshyam Prasad

Dated, the 10th July, 2008

Heard the counsel for the parties.

2. Mr. Yogendra Prasad Sinha, AAG 5, does not dispute few facts viz; (i) that the petitioner was arrested on 28th April, 2008 at 14.20 hours; (ii) that the petitioner was produced before the Chief Judicial Magistrate, Muzaffarpur on 30th April, 2008 at 10 hours and (iii) that the production of the accused (arrestee) before the Chief Judicial Magistrate was beyond 24 hours of his arrest. In our view, these admitted facts clearly indicate violation of Section 167 of the Code of Criminal Procedure.

WEB COPY NOT OFFICIAL

3. As a matter of fact, the Chief Judicial Magistrate was cognizant of this fact but still passed a remand order on 30th April, 2008 which is shocking.

4. Since the petitioner is juvenile (being less than 18

years of age) the matter came to be placed before the Juvenile Justice Board which also committed the same mistake of remanding the accused – petitioner overlooking the fact that the accused having not been produced within 24 hours of arrest, his arrest became illegal and order of remand could not have been passed.

5. In view of the aforesaid position, we have no hesitation in quashing the orders dated 30th April, 2008 passed by the Chief Judicial Magistrate, Muzaffarpur to the extent he ordered remand of the present petitioner and dated 2nd May, 2008 passed by the Juvenile Justice Board, Muzaffarpur ordering remand of the petitioner.

WEB COPY

6. In the circumstances, the petitioner shall be released from the custody forthwith.

7. Cr. WJC stands disposed of.

NOT OFFICIAL

R.M. Lodha, CJ.

Ghanshyam Prasad, J.

Neyaz/